

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to establish the California Institute for Climate Solutions.

Rulemaking_____

ORDER INSTITUTING RULEMAKING TO CONSIDER ESTABLISHING CALIFORNIA INSTITUTE FOR CLIMATE SOLUTIONS

1. Summary

This order initiates a rulemaking as part of the California Public Utilities Commission’s (Commission) continuing effort to aggressively pursue creative and cost effective ways to reduce greenhouse gas (GHG) emissions within California.

Attached to this order is a proposal submitted to the Commission on August 1, 2007 by the University of California (UC) for establishing an institute dedicated to supporting California’s public research institutions and policymakers in developing and implementing innovative solutions to the challenges posed by global climate change. The proposal describes the mission, organizational structure, priority program and research areas, and annual budget for the proposed California Institute for Climate Solutions (CICS or Institute). The Commission notes that the proposal is only a preliminary one. It is not a complete or exhaustive description of how the institute should be structured, but should serve as a good starting point from which we can develop a far more detailed final decision that is specifically tailored to best meet ratepayer needs. We respectfully request that UC supplement and augment the proposal as

needed. The Commission invites comments from the respondents and other interested parties on this proposal.

This rulemaking will:

- Consider and approve, if appropriate, an organizational and governance structure for the proposed institute;
- Consider and establish, if appropriate, program and research priorities for the proposed institute that should result in public policies, research and technology development that will be beneficial to utility ratepayers by reducing GHG emissions; and
- Establish a funding mechanism for the proposed institute's programs and research that will be cost effective for ratepayers.

2. Introduction

Climate change is the pre-eminent environmental challenge of our time. The problem is global in scope, but will lead to significant local impacts. Among the grave threats to Californians' health and economic well-being are rising sea-levels, a shrinking snow-pack, higher temperatures and deteriorating air quality. Indeed, California is already experiencing the effects of climate change. As the primary regulator of California's largest energy utilities, the Commission is considering this proposal submitted by UC, which among its many public charges is responsible for promoting education, , and undertaking research and technology development in ways that will provide benefits to all Californians.

Slowing and ultimately stopping GHG emissions will require a monumental and coordinated effort at the global, national, regional, state, and local levels. California's elected leaders have recognized the need for immediate action on an unprecedented scale by enacting a series of groundbreaking laws

and policies aimed at reducing our state's GHG emissions.¹ Most notably, Assembly Bill (AB) 32 requires that California reduce GHG emissions to 1990 levels by 2020, 25% below projected business-as-usual levels. In addition, Governor Schwarzenegger's June 1, 2005 Executive Order (#S-3-05) targets a reduction of 80% below 1990 levels by 2050. These aggressive goals require not only the development of new technologies and public policies, but also the formation of new partnerships which will create institutional channels through which they can be deployed, implemented, and otherwise disseminated.

The problem of devising and then implementing climate change solutions is substantially one of organization. Even where GHG reduction tools are widely recognized and accepted – like reducing consumption of water, constructing energy efficient buildings, and capturing and destroying methane gas – turning them into public policies that can be implemented effectively and efficiently requires a level of coordination and cooperation between state agencies, corporations, academic institutions, and individuals that has yet to be achieved.

California must continue to be on the vanguard of solving the problem of climate change if we are to accomplish our goals. Our policies have impacts beyond our borders and effect change regionally, nationally, and globally. The time to act is now. Each year California's population grows by close to a half million people.² This means that by 2009 the state's population could top 40 million. This growth will put additional strains on the state's physical and

¹ These include Senate Bill (SB) 1 (Stats. 2006, ch. 32), SB1368 (Stats. 2006, ch. 598), AB 1493 (Stats. 2002, ch. 200), and AB 32 (Stats. 2006, ch. 488).

² Legislative's Analysts Office, *Analysis of the 2007-08 Budget Bill: Perspectives and Issues*, http://www.lao.ca.gov/analysis_2007/2007_pandi/pi_02_anl07.aspx

environmental infrastructure, including unprecedented demands on the energy sector, transportation systems, and water-delivery systems.³ We must ensure that we have committed the resources and established the institutions that will enable us to incorporate future growth and the attendant demands on our infrastructure in a way that does not compromise our climate policies.

The level of societal effort needed to successfully combat the challenge of climate change has been likened to a new industrial revolution.⁴ To realize this wholesale transformation of our economy and lifestyle, California must draw on our collective financial and intellectual capital. We must fully engage not only the public and private sectors, but in particular the academic community. Recognizing this, the Commission President requested that the University of California, as the public university research institution in California, formulate a proposal for an institute that could develop and implement the necessary mission-based research that is needed. The Commission's intent is to engage not only the UC system, but also the major private research universities, Cal Tech, Stanford and USC, and the California State University and Community College systems as well. Other research and academic institutions within the state may be able to make valuable contributions to this effort as well and will encourage their contributions. To the degree that the attached UC proposal is inconsistent with this intent, the OIR controls.

³ Id.

⁴ Eileen Claussen, *Technology and Climate Change: Sparking a New Industrial Revolution* (March 10, 2002), http://www.pewclimate.org/press_room/speech_transcripts/transcript_technolog.cfm.

The proposed CICS could support achievement of California's GHG reduction goals in three key ways:

- Conduct mission-oriented, applied research that results in practical technological solutions and policy recommendations;
- Train the next generation of researchers and professionals; and
- Disseminate knowledge widely to practicing public and private sector professionals.

Establishing the CICS could be the critical next step in the State's effort to develop a long range strategy for reducing GHG emissions and thereby slowing the impacts of climate change.

Finally, the Commission recognizes that there may be overlap between the scope of research outlined in the CICS proposal and existing research projects conducted by individual utilities or programs administered by other state agencies. It is not the Commission's intent to fund redundant programs. This rulemaking, therefore, should consider how to structure the CICS so that it complements and augments existing efforts in a cost effective manner instead of replicating them.

3. Funding

The UC proposal includes an estimated budget of \$600 million to be spread evenly over a decade, \$60 million each year.⁵ As a preliminary matter this proceeding will consider whether funding on this scale for researching and developing climate solutions is needed. If so, the final decision will consider and adopt, if appropriate, the governance framework and procedural safeguards to ensure that ratepayer funds will maximize ratepayer benefits.

⁵ Proposal, p. 6.

Because climate change is a global problem, caused in significant part by the generation and consumption of electricity and natural gas, we ask for comments on the proposal that the annual cost of funding the Institute be paid equally by all ratepayers on an equal cents per kilowatt-hour basis and an equal cents per therm basis through utility bills. Because much of California's energy is produced by natural gas fueled generation, we invite comments as to whether or not natural gas delivered to power generators by California utilities should be exempt from these payments.

4. Governance and Organizational Structure

In order to ensure that ratepayers derive the maximum benefit from CICS programs, it is necessary that the Commission, with input from the utilities that we regulate, as well as groups advocating on behalf of ratepayers and the public interest, maintains control over how ratepayer funds are allocated and spent and, therefore, over ongoing operations of the Institute. It also appears necessary that the Institute's governance and organizational structure include accountability and performance measures that will allow the Commission and stakeholders to assess the progress of the proposed Institute's programs on an annual or semi-annual basis. At this time, the Commission views a well-designed organizational structure as central to the proposed Institute's primary goal of developing practical public policy and technological solutions in an efficient and cost-effective manner.

As described in the UC proposal, the Institute's agenda and goals will be described generally in a long-term strategic plan and more specifically in an

annual research and education agenda.⁶ The annual research and education agenda will be published along with a request for grant proposals.

UC proposes that the Governing Board be co-chaired by the Commission President and the President of the University of California, and should include additional senior personnel from the Commission and UC. The Governing Board will be responsible for appointing the Institute Director, the Administrative Director, all members of the External Advisory Board, and the members of the Stakeholder and Steering Committees. The strategic plan, operating budget and the annual research and education agenda will be subject to approval by the Governing Board.

Other governing committees of primary importance are the stakeholder and steering committees. As described in the UC proposal, the Stakeholder Committee will be composed of representatives from advocacy groups, ratepayer groups, environmental organizations, utilities, and related industries, who will be appointed by the Governing Board. The Steering Committee will be made up of representatives from UC and external academic experts. The Steering and Stakeholder Committees will be primarily charged with developing the strategic plan as well as developing the annual research and education agenda.

5. Research and Education Program Areas

As described in the UC proposal, in order to achieve both the short term and long term GHG reduction goals, California will need to employ technological and public policy solutions that do not presently exist. The proposed program areas emphasize energy research, but contemplate and allow

⁶ Id.

for researching GHG reduction strategies in other sectors as well. Recognizing the possibility that a future state, national or even global GHG reduction plan will likely promote the lowest cost GHG mitigation measures in all sectors, and that ratepayers therefore should benefit, we support this initial proposal but reserve final judgment pending receipt of comments. The proposal includes as priority program areas (1) energy efficiency in buildings and homes; (2) energy supply, sources and technologies; (3) governance, policy, and management; (4) climate forecasts and analysis; (5) quality of life and health; (6) measurement, informatics, and analytical infrastructure; and (7) education, technology development, and product development.⁷

6. Comments on New Rulemaking

In order to create a public record upon which we will base our final decision, all electric and natural gas utilities subject to our jurisdiction will be named as respondents and other interested parties will be given an opportunity to comment on the proposal. We invite respondents and other parties to comment on any and all aspects of the attached UC proposal, but specifically request comment on the following:

1. Is there a need for the kinds of research and educational programs outlined in the proposal?
2. If so, should they be centralized in a manner similar to that described in the UC proposal?
3. Is the budget identified in the UC proposal reasonable given the goals of the institute?
4. What role should the California Public Utilities Commission (CPUC) play in overseeing climate-change

⁷ See Proposal, pp. 9-19.

- related research and educational programs, and how should the CPUC coordinate efforts with other state agencies?
5. How should climate change-related research and education programs like those identified in the UC proposal be funded? Should programs be funded through a rate surcharge?
 6. If so, is an equal cents per kilowatt hour and/or equal cents per therm rate mechanism the appropriate way to distribute the costs of funding the proposed institute?
 7. Are there other funding sources, public or private, that should contribute to the institute?
 8. Should shareholders bear some portion of the cost of funding the institute, and, if so, how should the contribution be structured?
 9. How should funds be allocated between administration, technological research, public policy research, and educational programs?
 10. How should the proposed governance structure be organized so that that the Commission maintains enough control to ensure that ratepayer funds are allocated so as to maximize ratepayer benefits?
 11. What performance measures or other general guidelines should be placed on funding to ensure that funds are used efficiently and in a manner that maximizes ratepayer benefits?
 12. What should be the precise role of the proposed stakeholder committee in relation to the proposed steering committee?
 13. How does the proposed institute relate to or complement other publicly funded research programs and facilities such as PIER, Helios, or the Energy Biosciences Institute?
 14. If the Commission decides to fund an institute like that described in the proposal, should the level of ratepayer

- funding that goes towards other, related research and development programs decrease or change?
15. What additional priority program areas for research and education should be added to those outlined in the proposal?
 16. Given that it is the Commission's intent to draw on the resources of not only UC, but also Cal Tech, Stanford, USC, California State University and the Community College systems, is the organizational structure described in the proposal a suitable framework to efficiently and effectively coordinate this kind of broad participation?
 17. How can the Commission ensure that the institute's educational outreach and worker training programs reach diverse communities in California?
 18. If research conducted by the Institute results in profitable technologies or patents, should some portion of the profits be used to reimburse ratepayers for the cost of the research? If so, how should this be structured?

7. Preliminary Scoping Memo; Category of Proceeding

The preliminary issues in this proceeding are listed above. Pursuant to Rule 7.1(d) of our Rules of Practice and Procedure (Rules), this rulemaking is preliminarily categorized as "ratesetting" as that term is defined in Rule 1.3(e).

Our intention is to solicit written comments from respondents and other parties. We foresee no need for evidentiary hearings at this time; however, we expect to conduct one or more public workshops. Objections to the preliminary categorization of this rulemaking as "ratesetting" shall be filed no later than 10 days after the issuance of this rulemaking. (See Rule 7.6(a).)

Parties who believe that evidentiary hearings are necessary shall follow the procedure set forth below. If any party contends that evidentiary hearings are necessary, it shall, no later than October 19, 2007, in its opening comments:

- (1) Identify each material contested issue of fact on which hearings should be held (explaining as necessary why the issue is material);
- (2) For each such issue listed in (1) above, identify the evidence to be offered and specify whether the evidence constitutes “legislative facts” or “adjudicative facts”; and,
- (3) State why an evidentiary hearing is legally required.

Any party who does not file a timely response to this OIR requesting an evidentiary hearing waives any right to a hearing that may exist. Other parties may respond to any request for a hearing in their reply comments filed on November 5, 2007.

8. Schedule

This preliminary schedule for this proceeding is as follows:

Opening Comments Due	October 19, 2007
Reply Comments Due	November 5, 2007

9. Parties and Service List

Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SoCalGas), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE) are named as respondents to this rulemaking. We serve this order on parties to Rulemaking (R.) 06-04-009, R.06-04-010, R.06-02-012, R.06-05-027, R.06-02-013 and R.06-03-004. While the Commission recognizes that it has no authority to require that UC participate as a respondent, we respectfully request that UC voluntarily do so in order to expedite the exchange of information regarding the proposal.

We encourage broad participation in this rulemaking. Those persons served will not automatically be placed on the service list. Those who seek party status or wish to monitor this proceeding may do so by informing the

Commission's Process Office (process_office@cpuc.ca.gov) of his or her intent to participate and providing the following information no later than October 1, 2007:

1. Name and organization represented, if any;
2. Address
3. Telephone number
4. E-mail address
5. Assignment to the party, state service, or information only category.

After the service list is established persons may be added as parties as directed by the assigned Administrative Law Judge (ALJ). Any party that expects intervenor compensation for its participation in this rulemaking shall file its notice of intent to claim intervenor compensation no later than October 30, 2007.

All filings in this proceeding may be made electronically according to Resolution ALJ-188 and served consistent with Rule 1.10. Consistent with those rules, a hard copy of all pleadings shall be concurrently served on the assigned ALJ.

10. Public Advisor

Any person or entity interested in participating in this rulemaking who is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor in San Francisco at (415) 703-2074 or (866) 849-8390, or email public.advisor@cpuc.ca.gov; or in Los Angeles at (213) 576-7055 or (866) 849-8391, or email public.advisor.la@cpuc.ca.gov. The TYY number is (866) 836-7825.

11. Ex Parte Communications

Pursuant to Rule 8.4(b), ex parte communications in this rulemaking are governed by Rule 8.2(c) and 8.3.

Therefore, **IT IS ORDERED** that:

1. A rulemaking is instituted on the Commission's own motion to consider the funding, goals, and organizational structure of the proposed University of California Institute for Climate Solutions.
2. The Commission's Process Office shall create an initial service list based on the written requests received by October 1, 2007, and shall post this initial service list on the Commission's website no later than 7 days thereafter. Parties may obtain the service list from the Commission's website (www.cpuc.ca.gov) or by contacting the Process Office [(415) 703-2021].
3. Any party that expects intervenor compensation for its participation in this rulemaking shall file its notice of intent to claim intervenor compensation no later than October 30, 2007.
4. The Commission requests that the University of California, as proponents of the California Institute for Climate Solutions, shall voluntarily participate in this proceeding as respondents.
5. Respondents Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SoCalGas), San Diego Gas & Electric Company (SDG&E) and Southern California Edison Company (SCE) and other interested parties shall file opening comments responding to the questions set forth in this order instituting rulemaking (OIR). Comments shall conform to the requirements of the Commission's Rules of Practice and Procedure and opening comments shall be filed with the Commission's Docket Office and served no later than October 19, 2007. Responses to opening comments shall be filed and served

no later than November 5, 2007. Any party who does not file a timely response to this ruling requesting a hearing waives any right to a hearing that may exist.

6. The category of this rulemaking is preliminarily determined to be “ratesetting” as that term is defined in Rule 1.3(e) of the Commission’s Rules of Practice and Procedure. Any person objecting to the preliminary categorization of this rulemaking as “ratesetting” shall file the objection no later than 10 days after the issuance of this rulemaking.

7. The assigned Administrative Law Judge (ALJ), in consultation with the assigned Commissioner, may make any necessary adjustments to the schedule and service list for this proceeding.

8. The Executive Director shall serve this Order Instituting Rulemaking on the respondents to the OIR, namely PG&E, SoCalGas, SDG&E, and SCE. The Commission’s Process Office shall serve this OIR on the service lists of Rulemaking (R.) 06-04-009, R.06-04-010, R.06-02-012, R.06-05-027, R.06-02-013 and R.06-03-004.

9. Ex parte communications in this rulemaking are governed by Rule 8.2(a).

This order is effective today.

Dated _____, at San Francisco, California.